

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
CIVIL ACTION NO. 5:20-CV-00168-KDB-DSC**

JASON W. HAGGARD,)
)
Plaintiff,)
)
v.)
)
TODD R. ELLIS et al.,)
)
Defendants.)

ORDER

THIS MATTER is before the Court on “Defendants Todd R. Ellis and Law Office of Todd Ellis P.A.’s Motion for Judgment on the Pleadings” (document # 27) and the parties’ briefs and exhibits.

The parties have consented to Magistrate Judge jurisdiction pursuant to 28 U.S.C. 636(c) and this Motion is ripe for disposition.

On September 4, 2020, Plaintiff filed his Complaint in Catawba County Superior Court alleging legal malpractice. On October 13, 2020, Defendants removed the state action to the United States District Court for the Western District of North Carolina based upon diversity jurisdiction. On November 18, 2020, Defendants Todd R. Ellis, and Law Office of Todd Ellis P.A. (collectively, “Ellis Defendants”) moved to dismiss for failure to state a claim.

On January 11, 2021, the Court denied Ellis Defendants’ Motion to Dismiss. The Court found that Rorrer was inapplicable at the motion to dismiss stage. Rorrer v. Cooke, 329 S.E.2d 355, 365-66 (NC 1985). Rorrer addressed a plaintiff’s burden at summary judgment. Id.

Ellis Defendants filed their Motion for Judgment on the Pleadings on July 16, 2021. Plaintiff filed his Response in Opposition on July 30, 2021.

The standard governing a motion for judgment on the pleadings is the same as that for a motion to dismiss. United States v. Charlotte-Mecklenburg Hosp. Auth., 248 F. Supp. 3d 720, 725 (W.D.N.C. 2017) (citing Occupy Columbia v. Haley, 738 F.3d 107, 115 (4th Cir. 2013)). For the same reasons that the Ellis Defendants' Motion to Dismiss was denied, this Motion is denied.

NOW THEREFORE IT IS ORDERED:

1. "Defendants Todd R. Ellis and Law Office of Todd Ellis P.A.'s Motion for Judgment on the Pleadings" (document # 27) is **DENIED**.
2. The Clerk is directed to send copies of this Memorandum and Order to counsel for the parties.

SO ORDERED.

Signed: August 12, 2021



David S. Cayer
United States Magistrate Judge

